



State Human Rights Committee 2010 Annual Report On the Status of the Human Rights System

Approved by the
State Human Rights Committee
June 10, 2011

Presented to the
State Board of Behavioral Health and Developmental Services
July 28, 2011

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Message from the SHRC Chair and the Director of Human Rights

This annual report presents the activities and achievements of the State Human Rights Committee (SHRC) and the Office of Human Rights (OHR) in 2010 in accordance with our duties and responsibilities under the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the (DBHDS) Department of Behavioral Health and Developmental Services*. It is our hope that this report enlightens you about the protection of the human rights of individuals receiving services and the contributions of Virginia's citizens who serve as volunteers to assure these rights.

The State Human Rights Committee continued its long-standing practice of conducting its meetings at community programs and state facilities across the Commonwealth. This practice is extremely important to our consumers, families, volunteers, staff, SHRC members and the Office of Human Rights staff. It provided first-hand knowledge and familiarity with services that are available and provided in a variety of settings. We held meetings at three state facilities, one private location, DBHDS Central Office and two Community Services Boards/Behavioral Health Authorities. These meetings provided opportunities for the SHRC to receive feedback from consumers about quality of care, meet our service providers, visit community-based programs and share points of view about human rights issues. Consumers, staff, and family members also shared their experiences and ideas as to how the SHRC could improve the effectiveness and efficiency of services delivered in facility and community settings.

A critical function of the SHRC is to serve as the final step in the complaint resolution process. In 2010, approximately 6309 allegations of abuse or neglect (over 50% of the allegations of abuse/neglect were acts of peer on peer aggression) and 3441 human rights complaints were managed through the statewide human rights system and all but eighteen of those were resolved at the provider level. The SHRC heard five of those complaints on appeal. If responsiveness to consumer complaints is an indicator of system success, then the fact that over 99+% of complaints are resolved at the lowest level indicates a highly effective system of dispute resolution. The SHRC commends the consumers, providers, advocates and family members who worked together to resolve these issues.

During the past year the SHRC continued its efforts to increase monitoring of the human rights system through the development of goals and objectives that address specific areas of concern. The committee engaged in dialogue with staff regarding the committee's concern about the quality of treatment and limitations the system imposes upon consumers including delay in discharge and treatment of children and adolescents. This dialogue was further informed by the outstanding annual reports each region prepared and presented to the committee throughout the year. The committee also was enlightened by the presentations of experts such as Russell Payne, Office of Mental Health, Dr. James Morris, Director Office of Forensic Services, Dr. Steven Wolf, Director Office of Sexual Predator Services, Karen DeSousa DBHDS Special Counsel, Office of the Attorney General, Dr. Michelle Thomas, Director Office of Community Pharmacy and Ann Benner, VOCAL Network Program Director, on issues related to our goals. More

details about our goals, objectives and activities can be found beginning on page **15** of this report.

Virginia's human rights system has changed little in administrative structure and processes since the 1980's. At that time, the system was responsible for 15 state operated facilities and 40 Community Services Boards. There were few private providers. Today, this system is responsible for literally hundreds of providers and thousands of service programs. Yet, the basic structure and duties, particularly administrative duties, have not changed.

In response to the growing number of providers, new LHRCs have been created. There are currently 78 LHRCs, with over 480 members. In addition to their role in helping to facilitate provider compliance with the Regulations, and providing technical assistance to providers, the Human Rights Advocates are responsible for providing technical assistance and training support to the LHRCs. The growth in the number of providers and LHRCs greatly increases the workload of the Human Rights Advocates at a time when budget constraints have resulted in fewer resources for the Office of Human Rights.

Although the basic structure and duties of the human rights system have remained the same, the revisions to the Regulations in 2007 did place more authority with the provider for resolving complaints at the lowest level. As a result of this change, and the determined efforts of both providers and the Human Rights Advocates to resolve complaints, only 7 of the 6,164 complaints and allegations of abuse or neglect made in fiscal year 2010 were appealed to the LHRCs, and only 1 was appealed to the SHRC.

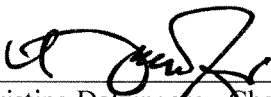
The State Human Rights Committee began reviewing the human rights system in early 2010, with the goal of identifying those changes that could best focus our limited resources, including the resources of our LHRCs, on those activities that are most impactful in assuring the rights of individuals. The changes adopted by the SHRC at their December meeting are designed to:

- Clarify that it is the role of the LHRC to provide each individual receiving services assurance that his or her rights, as defined in the Regulations, will be protected.
- Clarify that it is the role of the Human Rights Advocate to promote and monitor provider compliance with the Regulations.
- Strengthen the partnership between the LHRCs and their affiliated providers, by shifting the relationship from a "required/ compulsory" relationship to a "collaborative/advisory" relationship

At their December 10, 2010 meeting, the State Human Rights Committee (SHRC) approved changes to the model Local Human Rights Committee (LHRC) Bylaws and established a model Cooperative Agreement between LHRCs and affiliated providers. All LHRCs are to adopt the new Bylaws by June 2011, in order for the SHRC to approve them at the SHRC's July meeting. In addition, all LHRCs are to enter into Cooperative Agreements with their affiliated providers by June 2011. The new Cooperative Agreements will replace any existing Affiliation Agreements.

The SHRC plans to be actively involved in the Department's efforts to revise the human rights regulations with an eye toward further refining of the human rights system. The SHRC strongly believes that the structure of the human rights system can benefit from continued scrutiny and revision.

We extend our sincere gratitude to the Office of Human Rights staff and our volunteers who serve on Local Human Rights Committees and the State Human Rights Committee for their tremendous effort in support of the human rights program. We are proud of this year's accomplishments and look forward to the future with confidence that with our dedicated staff, loyal volunteers and the support of the Virginia Department of Behavioral Health and Developmental Services, we will succeed in making this program the best possible.



Christina Delzingaro., Chair
State Human Rights Committee



Margaret Walsh, Director
Office of Human Rights

Overview

The Department's Office of Human Rights, established in 1978, has as its basis the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services*. The Regulations outline the Department's responsibility for assuring the protection of the rights of consumers in facilities and programs operated, funded and licensed by DBHDS.

Title 37.2-400, Code of Virginia (1950), as amended, and the Office of Human Rights assure that each consumer has the right to:

- Retain his legal rights as provided by state and federal law;
- Receive prompt evaluation and treatment or training about which he is informed insofar as he is capable of understanding;
- Be treated with dignity as a human being and be free from abuse and neglect;
- Not be the subject of experimental or investigational research without his prior written and informed consent or that of his legally authorized representative.
- Be afforded the opportunity to have access to consultation with a private physician at his own expense;
- Be treated under the least restrictive conditions consistent with his condition and not be subjected to unnecessary physical restraint or isolation;
- Be allowed to send and receive sealed letter mail;
- Have access to his medical and mental records and be assured of their confidentiality;
- Have the right to an impartial review of violations of the rights assured under section 37.1-84.1 and the right to access legal counsel; and
- Be afforded the appropriate opportunities... to participate in the development and implementation of his individualized service plan.
- Be afforded the opportunity to have an individual of his choice notified of his general condition, location, and transfer to another facility. **(new July 1, 2009)**

The State Human Rights Committee's function is to monitor and make suggestions regarding the protection of the legal and human rights of consumers who receive services in programs or facilities operated, funded or licensed by the Department of Behavioral Health and Developmental Services, and to ensure that services are provided in a manner compatible with human dignity and under the least restrictive conditions consistent with the consumer's needs and available services. The SHRC has the responsibility of monitoring and evaluating the implementation and enforcement of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the (DMHMRSAS) Department of Behavioral Health and Developmental Services* promulgated pursuant to §37.2-400 of the Code of Virginia, as amended.

The State Human Rights Committee (SHRC)

- ◆ The SHRC consists of nine members appointed by the State DBHDS Board (hereinafter the Board).
 - a. Members shall be broadly representative of professional and consumer interests and of geographic areas of the Commonwealth. At least two members shall be individuals who are receiving services or have received within five years of their initial appointment public or private mental health, mental retardation, or substance abuse treatment or habilitation services. At least one-third shall be consumers or family members of similar individuals.
 - b. At least one member shall be a health care professional.
 - c. Members cannot be an employee or Board member of the Department or a Community Services Board.
 - d. If there is a vacancy, interim appointments may be made for the remainder of the unexpired term.
 - e. A person may be appointed for no more than two consecutive terms. A person appointed to fill a vacancy may serve out that term, and then be eligible for two additional consecutive terms.

Duties and Responsibilities:

- ◆ Elect a chair from its own members who shall:
 - a. Coordinate the activities of the SHRC;
 - b. Preside at regular meetings, hearings and appeals; and
 - c. Have direct access to the Commissioner and the Board in carrying out these duties.
- ◆ Upon request of the Commissioner, Human Rights Advocate, provider, Director, an individual or individuals receiving services, or on its own initiative, the SHRC may review any existing or proposed policies, procedures, or practices that could jeopardize the rights of one or more individuals receiving services from any provider. In conducting this review, the SHRC may consult with any Human Rights Advocate, employee of the Director, or

anyone else. After this review, the SHRC shall make recommendations to the Director or Commissioner concerning changes in these policies, procedures, and practices.

- ◆ Determine the appropriate number and geographical boundaries of LHRCs and consolidate LHRCs serving only one provider into regional LHRCs whenever consolidation would assure greater protection of rights under the regulations.
- ◆ Appoint members of LHRCs with the advice of and consultation with the Commissioner and the State Human Rights Director.
- ◆ Advise and consult with the Commissioner in the employment of the State Human Rights Director and Human Rights Advocates.
- ◆ Conduct at least eight regular meetings per year.
- ◆ Review decisions of LHRCs and, if appropriate, hold hearings and make recommendations to the Commissioner, the Board, and providers' governing bodies regarding alleged violations of individuals' rights according to the procedures specified in the regulations.
- ◆ Provide oversight and assistance to LHRCs in the performance of their duties hereunder, including the development of guidance documents such as sample bylaws, affiliation agreements, and minutes.
- ◆ Review denials of LHRC affiliations.
- ◆ Notify the Commissioner and the State Human Rights Director whenever it determines that its recommendations in a particular case are of general interest and applicability to providers, Human Rights Advocates or LHRCs and assure the availability of the opinion or report to providers, Human Rights Advocates, and LHRCs as appropriate. No document made available shall identify the name of individuals or employees in a particular case.
- ◆ Grant or deny variances according to the procedures specified in Part V (12 VAC 35-115-220) of the regulations and review active variances at least once every year.
- ◆ Make recommendations to the Board concerning proposed revisions to the regulations.
- ◆ Make recommendations to the Commissioner concerning revisions to any existing or proposed laws, regulations, policies, procedures, and practices to ensure the protection of individuals' rights.
- ◆ Review the scope and content of training programs designed by the department to promote responsible performance of the duties assigned under the regulations by providers, employees, Human Rights Advocates, and LHRC members, and, where appropriate, make recommendations to the Commissioner.
- ◆ Evaluate the implementation of the regulations and make any necessary and appropriate recommendations to the Board, the Commissioner, and the State Human Rights Director concerning interpretation and enforcement of the regulations.
- ◆ Submit a report on its activities to the Board each year.

- ◆ Adopt written bylaws that address procedures for conducting business; making membership recommendations to the Board; electing a chair, vice chair, secretary and other officers; appointing members of LHRCs; designating standing committees and their responsibilities; establishing ad hoc committees; and setting the frequency of meetings.
- ◆ Review and approve the bylaws of LHRCs.
- ◆ Publish an annual report of the status of human rights in the mental health, mental retardation, and substance abuse treatment and services in Virginia and make recommendations for improvement.
- ◆ Require members to recuse themselves from all cases where they have a financial, family or other conflict of interest.
- ◆ Perform any other duties required under the regulations.

Mission Statement

The Office of Human Rights assists the Department in fulfilling its legislative mandate under §37.2-400 of the Code of Virginia to assure and protect the legal and human rights of individuals receiving services in facilities or programs operated, licensed or funded by the Department.

The mission of the Office of Human Rights is to monitor compliance with the human rights regulations by promoting the basic precepts of human dignity, advocating for the rights of persons with disabilities in our service delivery systems, and managing the DBHDS Human Rights dispute resolution program.

Structure

The Office of Human Rights is located within the Department of Behavioral Health and Developmental Services and is supervised by the State Human Rights Director. The State Human Rights Director oversees statewide human rights activities and provides guidance and direction to human rights staff.

The **State Human Rights Committee** consists of nine volunteers, who are broadly representative of various professional and consumer groups, and geographic areas of the State. Members of the SHRC are appointed by the State DBHDS Board and acts as an independent body to oversee the implementation of the human rights program. Its duties include to: receive, coordinate and make recommendations for revisions to regulations; review the scope and content of training programs; monitor and evaluate the implementation and enforcement of the regulations; hear and render decisions on appeals from complaints heard but not resolved at the LHRC level; review and approve requests for variances to the regulations; review and approve LHRC bylaws, and; appoint LHRC members.

The **Local Human Rights Committees** are committees of community volunteers who are broadly representative of various professional and consumer interests. LHRCs play a vital role in the Department's human rights program, serving as an external component of the human rights system. LHRCs review consumer complaints not resolved at the program level; review and make recommendations concerning variances to the regulations; review program policies, procedures and practices and make recommendations for change; conduct investigations; and review restrictive programming.

Advocates represent consumers whose rights are alleged to have been violated and perform other duties for the purpose of preventing rights violations. Each state facility has at least one advocate assigned. Advocates who serve state facilities and regional advocates are assigned to community public and private programs. The Commissioner in consultation with the State Human Rights Director appoints advocates. Their duties include investigating complaints, examining conditions that impact consumer rights and monitoring compliance with the human rights regulations.

State Human Rights Committee Members

Ms. Christina Delzingaro

Chairperson

Ms. Delzingaro currently operates a consulting firm. She previously served as the Director of Career Development and Support Services with Goodwill Industries, serving Central Virginia and Hampton Roads. She is the former Executive Director of The Arc of the Piedmont in Charlottesville, Virginia and the former Personnel and Quality Assurance Coordinator for Central Virginia Community Services Board in Lynchburg, Virginia. She has served on the Western State Hospital Local Human Rights Committee as a consumer representative. Ms. Delzingaro resides in Richmond.

Randy J. Johnsey

Vice-Chairperson

Mr. Johnsey has a Bachelor of Science degree in Psychology from East Tennessee State University. Prior to his appointment to the SHRC was an active member and Chairman of Southwest Regional Human Rights Committee. As a consumer Mr. Johnsey provides the invaluable perspective of individual receiving services from the MHMRSA system. He was appointed to the SHRC by the State MHMRSAS Board on June 3, 2008, for a term of July 1, 2008 to June 30, 2011. Mr. Johnsey resides in Glade Spring

Mr. Joseph Lynch

Joseph G. Lynch, LCSW is a founding partner of Newman Avenue Associates, P.C., in Harrisonburg, which provides therapy and consulting services to individuals, couples, groups and families. He has also served as Director of Family Counseling Services, Inc., in Harrisonburg, Virginia, and was responsible for administration and delivery of direct clinical services to individuals, families, groups and organizations. Perhaps most importantly, Mr. Lynch is a cofounder and former clinical staff member of Shenandoah Valley Sex Offenders Treatment Program, P.C., in Harrisonburg. Mr. Lynch resides in Harrisonburg.

Dr. Jannie Robinson

Dr. Jannie Robinson is the Associate Vice-President for Student Affairs at Norfolk State University. She is a Licensed Clinical Social Worker with experience in social work and psychotherapy and has received training in substance abuse services. Prior to her appointment to the State Human Rights Committee she served on the Chesapeake Regional Local Human Rights Committee. Dr. Robinson was appointed to the SHRC by the State DBHDS Board on August 21, 2007, for a term of July 1, 2007 to June 30, 2010. Dr. Robinson resides in Chesapeake.

Donald Lyons

Mr. Donald Lyons is a retired State Police Officer from Hillsville, Virginia. He has experience as a supervisor in the Bureau of Criminal Investigation, Drug Investigative Unit for the far southwestern area of Virginia. Mr. Lyons is a former member of the Southwestern Virginia Training Center Local Human Rights Committee and served as Chair during his tenure on that committee. Mr. Lyons was appointed to the SHRC by the State DBHDS Board on August 21, 2007, for a term of July 1, 2007 to June 30, 2010.

Carolyn M. DeVilbiss

Ms. Carolyn M. DeVilbiss, LCSW, is a retired mental health manager and former employee of Fairfax-Falls Church Community Services Board and Mount Vernon Outpatient Unit. She has experience in discharge planning for clients hospitalized in the community as well as experience in the oversight of medication services, therapy and case management activities. Ms. DeVilbiss was appointed to the SHRC by the State MHMRSAS Board on June 3, 2008, for a term of July 1, 2008 to June 30, 2011. Ms. DeVilbiss resides in Alexandria.

Dr. Frank Royal

Dr. Royal is an Administrative Projects Coordinator for John Randolph Medical Center. He has experience in managing and treating patients in acute care settings for both residential and outpatient services, and has managed and supervised residents in an addiction medicine clinic. He is a former Psychosomatic Medicine Fellow and a former Child & Adolescent Psychiatric Fellow for the Medical College of Virginia. Dr. Royal's experience provides a valuable resource for the SHRC's oversight of the department's medical services. Dr. Royal was appointed to the SHRC on September 15, 2009 for a term of July 1, 2009 to June 30, 2012.

Penny Cameron

Ms. Penny Cameron is a Licensed Nurse Practitioner Mental Health Therapist with Fairfax County Government and has over 20 years of experience as Director of Partial Hospitalization where she has managed multidisciplinary treatment teams at various mental health centers. Ms. Cameron has provided review of services and services delivery of treatment for clients with a history of substance abuse and mental illness. She has over 30 years experience in psychiatry with primary experience in community mental health. Ms. Cameron was appointed to the SHRC by the DBHDS State Board for a term of July 1, 2010 to July 30, 2013. Ms. Cameron resides on Reston.

Thomas "TC" Bullock

Mr. Thomas C. Bullock is a Hearings Officer and Hostage Negotiator for the Department of Corrections at Mecklenburg Correctional Center. In his 35 years of experience in the correctional system he has had regular contact with individuals with mental health issues. Mr. Bullock came to the SHRC after serving as a member and as Chair of the Southside Community Services Board Local Human Rights Committee.

Mr. Bullock was appointed by the DBHDS State Board for a term of July 1, 2010 to July 30, 2013. Mr. Bullock resides in South Hill.

Officer Appointments / Membership Changes

Effective July 1, 2010

Ms. Christina Delzingaro, Chair
Mr. Randy Johnsey, Vice Chair

Term expired on June 30, 2010

Mr. Kirby Wright
Ms. Delores Archer

Terms beginning July 1, 2010

Mr. Thomas Bullock
Ms. Penny Cameron

State Human Rights Committee Activities

- **LHRC Bylaws**

The SHRC approved new or revise Bylaws of 9 local human rights committees.

- **Variances**

Variances were approved for the following providers.

Barry Robinson Center
The Pines
Keystone Newport News Youth Center
VA Beach Psychiatric Center
Poplar Springs Hospital
Western State Hospital
VA Beach Human Services

- **LHRC Appointments**

The SHRC appointed 139 individuals to serve on Local Human Rights Committees.

- **Meetings**

In 2010 the State Human Rights Committee held the following meetings:

January 23	DBHDS Central Office Richmond, Virginia
March 5	Western State Hospital Staunton, VA
April 15	RCATT Building Danville, Virginia Special meeting (Retreat)
April 16	RCATT Building Danville, Virginia
June 10	Southside Virginia Training Center Petersburg, Virginia Special meeting (follow up to Retreat)
June 11	Southside Virginia Training Center Petersburg, Virginia

July 9	Rappahannock Area Community Services Board Fredericksburg, Virginia
September 10	New River Valley CSB Blacksburg, Virginia
October 29	Eastern State Hospital Williamsburg, Virginia
December 10	Piedmont Geriatric Hospital Burkeville, Virginia

Meeting at various facilities and programs throughout the state provides the Committee with first hand knowledge and familiarity with the kinds of services available to consumers and the settings within which services are provided.

- **Case Reviews**

Making decisions regarding consumer appeals is among the most challenging and important tasks for the SHRC. A total of more than **9750** human rights and abuse/neglect complaints were processed through the human rights resolution process in 2010. All but eighteen of these cases were resolved at the Directors level or below. Those cases were appealed to local human rights committees and five of those cases were brought before the State Human Rights Committee on appeal. Each case provided the consumer with an additional opportunity to be heard regarding their human rights complaint. These appeals are the culmination of the human rights process and the decisions rendered by the SHRC provide guidance to LHRCs, facilities and programs across the state.

Issues addressed in decisions rendered by the SHRC, and local committees this past year included:

- * right to protection from harm, abuse and exploitation
- * services according to sound therapeutic practice
- * right to treatment with dignity
- * right to informed consent
- * right to participation in decision-making
- * right to freedoms of everyday life

SHRC Biennium Goals and Recommendations for 20010-2012

Biennium Goal # 1

Promote consistent statewide implementation of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services*. Indicators include:

- Updated policies and procedures
- Training
- Resources
- Review of the human rights regulations
- Participation in any Department effort to revise the regulations

Progress toward Biennium Goal #1 to date:

Colleen Miller, Executive Director of the Virginia Office of Protection and Advocacy (VOPA) provided comments on the status of the human rights system during the July 2009 meeting.

The SHRC received and reviewed annual reports from each of the six regional human rights teams.

The SHRC and OHR held a planning retreat in April 2010. The retreat helped to bring focus to strategies to improve the efficiency and effectiveness of the human rights system. A major outcome of the retreat was the establishment of the SHRC Subcommittee to review the LHRC structure. The subcommittee worked throughout the fall of 2010 and submitted its report and recommendations to the SHRC in early 2011 for implementation by mid 2011.

The SHRC again became the oversight committee for VCBR in the fall of 2010 following the Commissioner's issuance of an exemption to the complaint process in October 2010.

Steven Wolf, Director of the Office of Sexual Violent Predators presented research on best practices for the treatment of children and adolescents in SVP programs. His presentation was prompted by requests for variances from two adolescent SVP programs to use video cameras in resident bedrooms.

Michelle Thomas, Director of the Office of Community Pharmacy gave an update on the status of the community pharmacy program and its impact on consumer services.

The Loudon County LHRC submitted a question about the meaning of the term Health Care Provider. Based on the question from this LHRC, the SHRC

established a subcommittee to review the issue and provide additional guidance on the matter. The subcommittee plans to have its report completed by early 2011.

Biennium Goal #2

The SHRC will promote the department's system transformation including the concepts of recovery and self empowerment.

Indicator:

- Consumers report satisfaction with quality of life and decision-making.

Progress toward Biennium Goal #2 to date:

The SHRC learned about the DBHDS system efforts to promote Person Centered Planning from Lee Price in January 2008. Frank Tetrick educated the committee about the various consumer satisfaction surveys addressing recovery and service quality.

Ann Benner, VOCAL Network Program Director provided information on Peer Support Programs and VOCAL to the SHRC at its meeting in December 2010.

The SHRC received a long letter of concern from residents at ESH. The SHRC viewed this letter as an opportunity to engage in a dialogue about not only the rights of the individuals at ESH but also about the concepts of recovery and empowerment. The SHRC discussed these issues with facility representatives as part of the complaint resolution process in the fall of 2010.

The SHRC Subcommittee for LHRC structure will address recovery and self empowerment in several of its recommendation about consumer representation and access.

Biennium Goal #3

The SHRC recommends that DBHDS continue to promote the human rights concepts of treatment in the most integrated settings, and consumer and family choice that are central to the Olmstead Decision.

- Monitor the Department's response to DOJ (new 2011)
 - Indicators: TBD when plan is developed
- Monitor state facility ready-for-discharge lists on a quarterly basis.

Indicators:

 - ❖ Discharge lists will be reduced;
 - ❖ Individuals are satisfied with services and life after discharge.

- Join and monitor the efforts of the Department and VACSB to increase the number of substitute decision makers.

Indicators:

- ❖ Providers support, teach and encourage individuals to make their own decisions.
- ❖ Public Guardianship funds are used appropriately to discharge individuals from training centers.
- ❖ Promote alternative decision making avenues such as Power of Attorney and Advance Directives.
- Monitor Department and system efforts toward maintaining youth in the community following their transition to adult services.

Indicators:

- ❖ Youth in transition will receive appropriate services
- ❖ Promote Provider Choice
 - a. Individuals receive services in a timely manner
 - b. Individuals and family members get full, unbiased choice of providers.

Progress toward Biennium Goal #3 to date:

The SHRC monitors the state MH facility discharge lists on a quarterly basis.

Russell Payne reported that the number of individuals waiting for discharge from state facilities continues to decline. The SHRC will continue to monitor.

Consumer satisfaction surveys indicate satisfaction with quality of service and recovery efforts. The SHRC will continue to monitor this issue.

Lee Price reported on the successful use of Public Guardianship funds.

Ray Ratke, Deputy Commissioner, presented information on the status of the Commonwealth's efforts to improve services to children and adolescents. The SHRC will continue to monitor this issue.

The SHRC learned about the DBHDS system efforts to promote Person Centered Planning from Lee Price in January 2008. Frank Tetrick educated the committee about the various consumer satisfaction surveys addressing recovery and service quality.

Douglas Newsome, Manager Office of Licensing, presented information during the 9/5/08 meeting about the DMHRSAS licensing process.

Julie Stanley, Director of Community Integration, presented information during the 12/5/08 meeting on the System Transformation, Money Follows the Person project including, No Wrong Door, Your life-Your Choice and the Virginia Access web site.

Inspector General, James Stewart presented reports during the 12/5/08 meeting on evaluations of Crisis Intervention and Children and Adolescent services.

Douglas Newsome, Manager Office of Licensing, presented information during the January 2009 meeting about the influx of programs for children and adolescents. Mr. Newsome explained the standards these providers must meet and the monitoring of quality provided by the Department.

Karen DeSousa, Office of the Attorney General conducted training on Substitute Decision Making at the meeting on March 6, 2009.

Russell Payne reported on the number of individuals ready and waiting for discharge at the state operated facilities in June 2010.

Vickie Montgomery, Director of Central State Hospital provided information about the efforts of that facility to promote treatment in the least restrictive environment. Ms. Montgomery came to the SHRC upon invitation as a follow up to complaints lodged by individuals at CSH whose transfer to ESH was significantly delayed due to census management issues at ESH.

The census management issues at ESH and Region V continue to be an issue that the SHRC will closely monitor in 2011. Assistant Commissioner John Pezzoli will provide an update on the Departments efforts to address the issue at the SHRC meeting in March 2011.

Karen DeSousa presented training in April 2010 on the changes to the Health Care Decisions Act and how it will increase individual decision making options.

Janet Lung, Director of the Office of Children and Family Services is scheduled to present a report on the status of children and adolescent services in early 2011.

Biennium Goal #4

The SHRC recommends that DBHDS continue to promote the concept of, and provide training in, treatment without coercion in state operated facilities and community based programs and hospitals.

- State Facilities will reduce the use of seclusion and restraint.

Progress toward Biennium Goal #4 to date:

The Department provides training on TOVA to community partners.

The SHRC reviews and monitors data on the use of seclusion and restraint in state facilities

The SHRC received an update on the use of Therapeutic Options of Virginia (TOVA).

The SHRC received an update on the Seclusion and Restraint grant and TOVA during its meeting on 12/5/08.

Marion Greenfield, Director of Quality and Risk Management will present an update on the Department and systems efforts to reduce seclusion and restraint in April 2011.

Biennium Goal # 5

The SHRC will be efficient and effective.

- Required tasks will be completed in a timely manner

Progress toward Biennium Goal #5 to date:

SHRC reviewed all Regional team reports in 2009.

SHRC 2008 Annual Report was submitted to the State Board in September 2009.

Kli Kinzie, Executive Secretary to the SHRC, developed a variance tracking sheet for use by the SHRC to improve the tracking of variances.

Kli Kinzie developed a LHRC vacancy tracking sheet to assist the SHRC with review of committee membership status.

Biennium Goal # 6

The SHRC will monitor the Virginia Center for Behavioral Rehabilitation's adherence to the human rights regulations through reports, policies, and complaint resolution as needed at every meeting or as issues arise.

- Residents are treated with dignity and respect (new indicator 2011)

Progress toward Biennium Goal #6 to date:

As of June 2008, the SHRC no longer serves as the "local committee" of review for VCBR. The Piedmont Local Human Rights Committee has agreed to become the LHRC for VCBR. Since that time VCBR has implemented the complete complaint process in accordance with the regulations. There is no longer an exemption.

The SHRC again became the oversight committee for VCBR in the fall of 2010 following the Commissioner's issuance of an exemption to the complaint process in October 2010.

Biennium Goal # 7

The SHRC will support Local Human Rights Committees.

- Each SHRC member will attend at least one LHRC meeting per year. SHRC members will provide prior notice to the LHRC chair requesting time on the agenda in order to make brief comments.
- Enhance communication with LHRCs.
 - Explore an email distribution list

Progress toward Biennium Goal #7 to date:

The SHRC published 2 volumes of Human Writes in 2008. SHRC members attended meetings of local committees.

The SHRC members are now to attend 2 LHRC meetings per year.

The SHRC has a standing agenda item to discuss and review reports of attendance at LHRC meeting.

The SHRC established a Communication Subcommittee charged with developing a plan to improve and increase communication between the SHRC and LHRCs.

The SHRC published two volumes of Human Writes in 2010.

Biennium Goal # 8

The SHRC will promote and provide ongoing training opportunities for all stakeholders.
Enhance leadership skills of LHRC members

Progress toward Biennium Goal #8 to date:

The SHRC issues guidance to LHRC members in the newsletter and memorandum.

The SHRC supports regional LHRC training activities. The Communication subcommittee is addressing how to increase training activities by other means including electronic.

Biennium Goal # 9

The SHRC will recognize the service of LHRC members.

Progress toward Biennium Goal #9 to date:

A member of a local committee is featured in each volume of Human Writes.

Office of Human Rights Program Highlights

Staffing

The Office of Human Rights had several staffing changes in 2010 that have significantly impacted the overall organization of the office. A list of the staff changes and status of the positions is below.

- Ms. Willie, Human Rights Advocate at Eastern State Hospital and the Tidewater, left service in Spring 2010 . Position soon to be filled.
- Ms. Ansley Perkins, Human Rights Advocate at Central State Hospital and Region IV, left service in December 2010. Position was filled by transfer of Walter Small.
- Mr. Walter Small, Human Rights Advocate at PGH and VCBR transferred to the position at CSH in January 2011. Mr. Small works half time at CSH and half time at ESH.
- Ms. Katherine Ketch, Executive Secretary Region V Human Rights office, left service in December 2010. Position soon to be filled.
- Ms. Tammy Long, Human Rights Advocate at PGH/VCBR, began service in March 2011.

Following the completion of the current hiring processes the Office of Human Rights will have one remaining vacant position. That position is an advocate position at ESH and Region V and we remain hopeful that permission to fill the position will be forthcoming. Overall the Office of Human Rights has lost six and one half positions since 2009. The loss of these positions impacts every region of the state. The current staffing pattern severely reduces the availability of the OHR to provide quality advocacy services. At risk is the availability of OHR staff to promote provider compliance with the regulations through consultation and guidance and sight visits; respond to human rights complaints; investigate allegations of abuse and neglect; and provide training to consumers, providers and professionals. The Department's overall system of consumer protection, including the Office of Licensing, suffers due to the lack of sufficient staff resources.

The proliferation of new providers across the state has put an extra burden on already stretched staff. Regional staff worked with new providers to facilitate licensure in order to provide services to individuals. The numbers below do not reflect the number of actual service locations that a particular provider may operate. For example, a provider of sponsored residential services may provide service at 30 different locations.

The number of providers per region in 2010 is as follows:

- 126 in Region I
- 139 in Region II
- 60 in Region III
- 317 in Region IV
- 249 in Region V
- 146 in Region VI

The number of new providers per region in 2010 is as follows:

- 12 in Region I
- 19 in Region II
- 5 in Region III
- 47 in Region IV
- 41 in Region V
- 15 in Region VI

The number of LHRCs per region in 2010 follows:

- 10 in Region I
- 9 in Region II
- 8 in Region III
- 17 in Region IV
- 26 in Region V
- 8 in Region VI

The OHR continues to promote the cross training of all advocates. At this time, all advocates provide services to both community and state facility programs which strengthens both the community and facility programs by providing continuity of care and an increased emphasis on discharge planning and service development.

Efforts to promote compliance with the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services* continued throughout the year. OHR staff provided over 100 training events in 2010. These efforts included the following activities:

Training: OHR staff provided training to consumers, family members or providers at the following locations:

- Club Houses
- Psychiatric Hospitals
- Professional Organizations
- Parent Organizations
- Group Homes
- Residential Treatment Centers

- Training Centers
- Psychosocial Rehabilitation Programs
- Community Organizations
- Substance Abuse Programs
- Conferences/Meetings
- Community Services Boards
- Preadmission Screening Evaluator Certification (video tape)

Web based Information: Individuals can also access general information about the human rights program at www.DBHDS.virginia.gov. Click on Human Rights on the left side of the page.

This information includes:

- Notice of SHRC meetings
- Notice of Variance requests
- LHRC affiliations and meeting schedules
- Relevant legislative information
- OHR Directory
- SHRC Annual Reports
- Frequently Asked Questions (FAQs)
- Human rights training information including video tapes, power point slide presentations and workbook
- Sample Test Questions

Training and Staff Development

The Office of Human Rights participated in a meeting to meet the then Interim Commissioner via conference call on February 10, 2010. The meeting was an opportunity for staff to hear about the Interim Commissioner and ask questions. The Office of Human Rights and SHRC held a retreat on April 15th in Danville, Virginia. The Retreat focused on identifying ways to improve the overall efficiency and effectiveness of the human rights system. The Retreat resulted in significant activities throughout the remainder of the year and into 2011. The OHR had a conference call meeting as a follow up to the Retreat on May 20, 2010 that helped bring clarity to the direction of the office. Unfortunately the staff meeting scheduled for December 16th had to be cancelled due to the weather and was rescheduled for early 2011.

All training and meetings focused on enhancing staff ability to effectively advocate for individuals, and monitor the implementation of the regulations. Topics addressed during these meetings included reorganization strategies, streamlining of the provider approval process, forensic issues, informed consent, person centered planning, system wide recovery efforts, peer on peer reporting, the complaint process, LHRC affiliations, CHRIS rewrite project and efforts to improve the documentation of OHR work products. These meetings also served to keep staff informed of relevant policy and legislative changes. One of the most important and beneficial aspects of the QA meetings is the regional updates. This provides a forum for all staff to share what is happening in their areas with each other. Staff often uses this time to share ideas and promote creative problem solving.

System Transformation Efforts/DOJ

Efforts to transform the DBHDS system continued in 2010. The changes in the Virginia Code including the criteria for commitment, the mandatory outpatient commitment process and the sharing of medical records went into effect on July 1, 2009 and continue to bring change in the system. Additional efforts to revise the Code were made by the to the General Assembly during the 2010 session including changes to the Health Care Decisions Act involving psychiatric advance directives. Each of the proposed area of change to the Code impact the rights of individuals served in the system. The SHRC and OHR continue to monitor the outcome of the proposed changes to the Code.

Additional system transformation efforts include the promotion of recovery, empowerment and self determination. A critical aspect of this is the use of the person centered planning approach throughout the system. The Person Centered Planning Advisory Committee developed and began the implementation of a model document. This planning tool was developed for use with individuals with intellectual disabilities but can be used by all consumers.

Recovery efforts are moving forward in state facilities and community based programs. There is a statewide Recovery Council that promotes system wide efforts of recovery. Peer mentors and peer run centers are being developed and utilized as a means to enhance and support the recovery efforts of individuals with mental illness.

As of the writing of this report, the Department of Justice (DOJ) has issued a letter outlining concerns about Virginia's efforts to comply with the Olmstead Act. The State is currently developing its response to DOJ and will be entering into negotiations regarding its plan to implement improvements in the system of care. The SHRC plans to monitor these activities.

Reporting Requirements

The regulations require that providers report and investigate human rights complaints and allegations of abuse, neglect or exploitation. The Department is developing a web based reporting system that should help with having more accurate data. One area that providers continue to struggle with regarding reporting is events of peer on peer aggression. Hopefully the change in the regulations and the new web based system will help in this area. The new system should be operational by spring 2011.

Abuse/Neglect

Departmental Instruction 201 is the Department's policy on abuse and neglect. In the past, State operated facilities were noted as being somewhat inconsistent with the adherence to and understanding of this policy. After a thorough review and revision process, DI 201 was revised in late 2009. The implementation of the revised DI appears to be successful. The OHR continues to promote compliance with this policy and the regulations.

Projected Activities for 2010-2011

The primary goal for the Office of Human Rights for the year 2010-2011 is to provide quality advocacy services to consumers in programs operated, funded and licensed by the Department. This is always the central function of the OHR and all other goals and activities support this goal. In support of this goal a major activity for the upcoming year will be to promote consistent implementation of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services*. Other major projected activities for the Office of Human Rights for the year 2010-2011 are as follows:

- Provide training and guidance on the human rights regulations.
- Implement a web-based human rights reporting system.
- Promote best practice models of recovery and self empowerment
- Promote community integration by assisting with the implementation of the DOJ activities.
- Continue efforts to identify efficiencies in operation.
- Continue efforts to coordinate monitoring activities with the Office of Licensing
- Provide support, training and guidance to local human rights committees.
- Promote coercion free environments statewide.
- Work with consumers, providers, family members, professionals and other stakeholders to identify options to improve the system and availability of alternative decision-makers.
- Promote consistency and accurate documentation of monitoring activities.
- Develop resources to assist consumers and providers as needed.

Local Human Rights Committees

Local Human Rights Committees continue to monitor the activities of facilities and community programs in assuring protection of consumers' rights. The volunteers who serve on these committees lend their time and expertise to ensure compliance with the Rules and Regulations. Committee members are appointed by the State Human Rights Committee and are eligible to serve two three-year terms. Local Human Rights Committees or subcommittees held approximately 450 meetings in 2010. A listing of all **79** LHRCs and their program affiliates can be found in Appendix III.

All committees meet at least quarterly, with many meeting on a monthly basis. Local Human Rights Committees activities include:

- reviewing complaints filed on behalf of consumers;
- developing bylaws;
- reviewing variance requests;
- conducting fact-finding conferences;
- reviewing restrictive programs; and
- reviewing policies and procedures.

Advocates Activities

During the year, the human rights staff was involved in numerous activities to ensure and protect the rights of consumers. These activities included:

- Representing and assisting individuals in the presentation and resolution of complaints;
 - 6309 total allegations of abuse/neglect 2010
 - 5710 in licensed services
 - 508 cases were founded
 - 599 in state operated services
 - 174 cases were founded
 - 3441 total human rights complaints in 2010
 - 1021 in licensed services
 - 2424 in state operated services
 - 9750 complaints and allegations of abuse and neglect were resolved at the Director level or lower.
 - 18 appealed to LHRC
 - 5 appealed to SHRC
- Investigating allegations of abuse and neglect and other potential violations of the regulations
 - 220 investigations in 2010

- Educating consumers, families, staff and Local Human Rights Committees on the rights of consumers;
- Monitoring the implementation and compliance with the regulations;
 - 323 announced and unannounced site visits in 2010
- Assisting in developing, reviewing and amending human rights policies and procedures for the approximately 697 providers in the state. These providers offer 1662 services at 5037 locations across the state. To illustrate the increase in providers, in 2008 there were 539 providers, 1254 services, and 3357 locations served and in 2010 there are 697 providers (23% increase), 1662 services (33% increase), and 5037 locations (50% increase).
- Providing training to staff, consumers, family members, LHRCs;
- Providing consultation on the human rights program to consumers, program staff, LHRCs, and advocacy and community groups.
- In addition to all of the above, the regional advocates and managers provide supervision to assigned staff.
- Regional staff/teams prepared comprehensive Regional Reports for 2010. These reports provide detailed statistics and information about human rights activities in each of the six regions. Each Regional Team presented their report to the SHRC.

Summary of Community Program Abuse/Neglect and Complaint Allegations

The following table reflects statistics on abuse/neglect allegations/substantiation and human rights complaints from community programs for the years 2001 through 2010. This information is reported to the Regional Advocates from the Community Service Boards (CSB) and private providers.

- There were 1021 human rights complaints as reported to the Office of Human Rights in 2010. This number includes complaints processed both formally and informally in accordance with changes in the 2007 regulations. Providers continue to have questions about the actual nature of a complaint and when to report it to the OHR. OHR and LHRCs continue to educate providers about this important issue.
- There were 5710 allegations of abuse and/or neglect as reported to Office of Human Rights in 2010. The large number of allegations results from the large number of peer on peer incidents that were investigated as potential neglect. Over 50% of these allegations involved peer on peer aggression. Most of the reported peer on peer aggression occurs in residential treatment centers for children and adolescents.
- There were 508 substantiated cases of abuse and or neglect as reported to the Office of Human Rights in 2010, which is down significantly from 658 reported in 2009. The decrease is attributed to many factors including the quality of provider service and the monitoring activities of the Department and local human rights committees.

- Because of the many variables affecting this data it is best used as a tool for quality improvement for a specific provider rather than a tool for comparison among providers or regions.

Community Programs

	Abuse Allegations	Abuse cases Substantiated	Human Rights Complaints
2001	899	162	840
2002	1094	215	785
2003	1626	252	380
2004	1694	276	534
2005	1938	286	849
2006	**3098	**334	**689
2007	**4007	**340	**615
2008	**5402	**464	**1374
2009	**6765	**658	**1311
2010	**5710	**508	** 1021

Note: Data for 2004 is incomplete

**Data from Regional Reports

Summary of State Facility Human Rights Complaints and Abuse/Neglect Allegations

(Data source is CHRIS and Regional Annual Reports)

- There were 2424 human rights complaints in state facilities in 2010. This number includes complaints processed both formally and informally and is significantly higher than the 1411 reported in 2009. The difference is attributed to the large number (1271) of complaints reported at the Virginia Center of Behavioral Rehabilitation (VCBR).
- All but two of the of the facility complaints was resolved at the Director's level or below. Five human rights complaints were heard on appeal at the LHRC level and four were heard on appeal at the SHRC level.
- The number of complaints reported at VCBR has increased from 292 in 2008, 407 in 2009, to 1271 in 2010. This is, in part due to the increase in census at VCBR but also because the residents are eager to voice their concerns about the conditions at VCBR. We anticipate that these numbers will continue to rise in direct proportion to the increase in census at the facility. D
- There were 599 allegations of abuse/neglect in the state facilities. This number is seen as consistent with past years.
- The 174 substantiated cases of abuse and neglect is higher than in past years. The increase is attributed to the multiple findings of neglect at SVTC due to lack of appropriate dental care.
- Because of the many variables affecting this data it is best used as a tool for quality improvement for a specific facility rather than in comparison among or between facilities.

State Facility
Abuse/Neglect Data

	#Allegations/ #Substantiated								
	2002	2003	2004	2005	2006	2007	2008*	2009*	2010*
Catawba	16/0	8/0	12/5	8/0	10/0	11/1	9/0	8/2	9/5
CSH	172/28	148/27	119/10	131/14	127/25	156/18	143/14	136/13	168/17
CVTC	73/13	63/18	51/13	53/17	21/5	60/16	98/36	87/21	46/15
CCCA	21/0	11/0	11/0	8/0	4/1	6/4	4/1	15/2	14/2
ESH	71/12	79/14	92/8	68/7	72/12	78/4	61/5	50/6	61/12
HDMC	10/4	9/1	7/1	11/1	6/0	7/0	4/1	3/1	3/0
NVMHI	65/4	49/4	29/1	47/3	13/2	16/6	24/3	28/0	39/1
NVTC	16/7	11/5	12/7	10/6	5/3	16/10	12/3	19/11	19/11
PGH	17/4	6/3	9/1	13/2	7/3	7/1	12/1	10/0	16/1
SEVTC	47/13	71/19	29/8	38/10	34/11	20/10	19/10	14/7	13/5
SVMHI	14/1	21/1	6/2	3/1	3/1	5/0	5/0	6/4	9/0
SVTC	39/12	60/23	70/27	70/28	67/17	101/25	75/34	60/36	92/57
SWVMHI	40/3	34/3	32/7	26/2	20/1	19/4	14/0	25/2	22/1
SWVTC	71/6	66/9	71/7	53/12	29/5	67/13	72/19	57/11	38/17
WSH	33/5	24/6	15/1	10/7	17/5	25/6	16/5	30/8	23/11
VCBR					13/0	14/0	35/4	29/4	27/19
Totals	686/112	660/133	565/98	549/110	448/92	608/118	568/132	577/128	599/174

* Includes data from CHRIS and the Regional Annual Reports

State Facility
Human Rights Complaints

	2002	2003	2004	2005	2006	2007	2008	2009	2010
Catawba	122	40	22	36	8	8	74	57	31
CSH	109	179	193	58	51	97	291	163	231
CVTC	191	42	11	17	5	8	3	4	60
CCCA	34	8	1	3	0	25	41	36	8
ESH	53	84	101	32	58	54	215	264	582
HDMC	1	1	2	1	4	1	0	0	1
NVMHI	99	52	51	57	4	6	25	75	37
NVTC	4	0	0	1	0	0	4	0	1
PGH	69	77	76	68	52	42	21	0	1
SEVTC	5	2	3	6	4	3	2	7	2
SVMHI	24	31	26	11	15	39	46	50	18
SVTC	12	7	10	11	13	6	12	16	2
SWVMHI	80	41	28	39	26	14	42	30	34
SWVTC	19	17	15	0	5	10	22	7	11
WSH	239	171	241	261	263	70	345	295	134
VCBR					160	292	292	407	1271
Totals	1061	752	780	601	668	650	1435	1411	2424

- Includes Complaints processed formally and informally
- Data from CHRIS and Regional Annual Reports